

BOARD OF APPEALS CASE NO. 5089

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BEFORE THE

APPLICANTS: Michael & Christa Manzari

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ZONING HEARING EXAMINER

REQUEST: Variance to construct an in-ground swimming pool within the required setback and recorded easement; 435 Fox Catcher Road, Bel Air

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OF HARFORD COUNTY

HEARING DATE: November 13, 2000

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Hearing Advertised

Aegis: 10/11/00 & 10/18/00

Record: 10/13/00 & 10/20/00

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Michael and Christa Manzari, are seeking a variance pursuant to Section 267-26D(3) of the Harford County Code to construct an in-ground pool within the 10 foot property line setback (5 feet proposed) and a variance pursuant to Section 267-26C(6) of the Harford County Code to allow an in-ground pool within a recorded easement in an R2/COS Urban Residential Conventional with Open Space District.

The subject parcel is located at 435 Fox Catcher Road, Bel Air, Maryland 21015 and is more particularly identified on Tax Map 56, Grid 2E, Parcel 581, Lot 54. The subject property consists of 0.207± acres, is zoned RR/COS and is entirely within the First Election District.

The Applicant, Michael Manzari, appeared and testified that he is the owner of the subject parcel. The witness described the property and pointed out that there is a steep grade front to rear on his property that constrains the location of a pool that necessarily needs a fairly level area. In order to locate the pool in a level area of the property it needs to be placed closer to the side yard property line than the 10 foot requirement (5 feet proposed) and within the rear easement. The property is rectangular in shape and is narrower on the front property line than the rear. There are drainage and utility easements across the rear property line and down both side property lines. To the east side there is an easement that leads back from the road to an area of open space. The proposed pool will be an extension of the existing patio and deck found to the rear of the existing home. Because of the slope of the property, the pool will be built below the grade of the patio and a retaining wall will be necessary. Decking will be added around the pool in order to maintain a level appearance.

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The Department of Public Works provided a letter that allows encroachment into the easement area in the manner proposed. The witness concluded by stating that the pool will have no adverse impacts on neighboring properties and his pool will be very similar to other pools located in the neighborhood.

The Department of Planning and Zoning, in its Staff Report dated November 6, 2000, stated in regard to this application:

“The Department finds that the property is unique. The requested variance should not have an adverse impact on the intent of the Code or the adjacent properties. A portion of Lot 56 is located to the rear of the subject property, with the remaining area of Lot 54 designated as passive open space.”

The Harford County Code, pursuant to Section 267-11, permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner agrees with the Department of Planning and Zoning finding that the property has unique topographical features that result in the need for the requested variances. The proposed use should have no adverse impact on the Code or neighboring properties and is consistent with other, similar uses, in the neighborhood.

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The Hearing Examiner, therefore, recommends approval subject to the following conditions:

1. The Applicant obtains any and all necessary permits and inspections.
2. The Applicants comply with the requirements of the Department of Public Works as outlined in their August 30, 2000 memo.
3. The Applicant submit a landscaping plan for the area surrounding the pool to be approved by the Department of Planning and Zoning at the time of permit application.

Date **DECEMBER 5, 2000**

William F. Casey
Zoning Hearing Examiner